IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

CWP No.929 of 2000.

Date of decision: September 18, 2006.

M/s. Purewal & Associates .. Petitioner.

Versus

Dila Ram and others .. Respondents.

Coram:

The Hon'ble Mr.Justice Deepak Gupta,J.

Whether approved for reporting ?[1]

For the Petitioner: Mr. Ajay Kumar, Advocate.

For Respondents 1 to 4: Mr. M.L. Sharma, Advocate.

Deepak Gupta, J.

This petition, under Article 226 of the Constitution of India, is directed against the award passed by the Presiding Officer, Himachal Pradesh Labour Court Shimla, in Reference No.29 of 1995, decided on 28.6.2000. The following reference has been made by the state Government to the Labour Court:-

> "Whether the demands raised by the Pradhan and General Secretary of Purewal Employees' Union, Jubber, Tehsil Kasauli, Distt. Solan with the

[1] ***Whether the reporters of Local Papers may be allowed to see the judgment ?***

Management of M/S Purewal and Associates, Ltd. Jubbar, Tehsil Kasauli, Distt. Solan (HP) vide their demand charter dated 8.6.1994 (copy enclosed) in respect of S/Shri Dile Ram, Moti Ram, Dharam Datt, Nirmal Sharma and Kesar Singh relating to their demand for higher pay and allowances than the junior workers to them on the basis of seniority are legal and justified, if so, to what relief, service benefits and pay scales, the aggrieved workers in relation to the above named charter are entitled to and from which date?"

The reference was made in respect of five persons. Kesar Singh did not file a formal petition before the Labour Court, but did appear in the witness box and supported his case.

Shri Dile Ram, however, settled the matter with the employer. The case of other workmen i.e. Moti Ram, Dharam Dutt, Nirmal Sharma and Kesar Singh, was that they were getting lesser wages than their co-employees who were working and doing similarly jobs and were juniors to them. The stand of the employer was that Lalit Sharma, Ram Sawaroop, Malkhan Singh, Jai Prakash, Lekh Ram, Sheela Devi and Usha Rani the co-employees were getting higher pay than the petitioners because their work was better and they were more efficient in

their work and hence they had been awarded additional increments. The employer failed to produce any material on record to show that on what basis the working of the employees had been judged. The employer did not produce before the Labour Court any circular, guidelines or any other codified policy which could depict that there was any yardstick for assessing the performance of an individual worker. No assessment slip or assessment chart or any other material was placed to show that the performance of the petitioners-workmen was in any way inferior to other workmen. The learned Labour Court has on facts come to the conclusion that the workmen have proved their case and are entitled to parity of pay scale with the employees who are similarly situate.

I find no infirmity in the reasoning of the learned Labour Court and there is no reason to interfere in the award passed by the Labour Court. It would be relevant to mention that the Labour Court specifically came to the conclusion that though Kesar Singh, whose claim was referred to the State Government, has not filed any separate claim before the Labour Court, his claim being covered under the terms of reference, he would also be entitled to the benefits given to the other employees. The employer while filing the present petition has not even impleaded Kesar Singh as a party to the writ petition.

Thus the award with regard to Kesar Singh have attained finality. Therefore, the petitioner-employer is not entitled to challenge the award qua the other workmen.

Keeping in view the above discussion the petition is without any merit and is dismissed.

September 18, 2006.
(rc)

(Deepak Gupta),
Judge.